

Exhibit

B

No. 23-
In the United States Court of Appeals
for the Fifth Circuit

Career Colleges & Schools of Texas,

Plaintiff-Appellant,

v.

United States Department of Education, et al.,

Defendants-Appellees.

On Appeal from the United States District Court
for the Western District of Texas, Austin Division
No. 1:23-cv-00433-RP

**PLAINTIFF-APPELLANT'S OPPOSED EMERGENCY MOTION FOR
ADMINISTRATIVE INJUNCTION PENDING DECISION ON MOTION
FOR INJUNCTION PENDING APPEAL**

Philip Vickers
Katherine Hancock
CANTEY HANGER LLP
600 West 6th Street, Suite 300
Fort Worth, TX 76102
pvickers@canteyhanger.com
(817) 877-2800

Allyson B. Baker*
Stephen Kinnaird
Michael Murray*
Sameer P. Sheikh*
Tor Tarantola*
PAUL HASTINGS LLP
2050 M Street NW
Washington, DC 20036
allysonbaker@paulhastings.com
(202)-551-1830

Counsel for Plaintiff-Appellant

* Application for admission or readmission pending.

CERTIFICATE OF INTERESTED PERSONS

No. 23-_____

Career Colleges & Schools of Texas v. U.S. Dep't of Educ., et al.

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Plaintiff-Appellant:	Career Colleges & Schools of Texas
Counsel for Plaintiff-Appellant:	<p>PAUL HASTINGS LLP Allyson B. Baker (allysonbaker@paulhastings.com) Stephen Kinnaird (stephenkinnaird@paulhastings.com) Michael Murray (michaelmurray@paulhastings.com) Sameer P. Sheikh (sameersheikh@paulhastings.com) Tor Tarantola (tortarantola@paulhastings.com)</p> <p>CANTEY HANGER LLP Philip Vickers (pvickers@canteyhanger.com) Katherine Hancock (khancock@canteyhanger.com)</p>
Plaintiff-Appellant's member schools participating in the William D. Ford Federal Direct Loan Program:	Arlington Career Institute Asher College Auguste Escoffier School of Culinary Arts Avenue Five Institute Center for Advanced Legal Studies Collectiv Academy Concorde Career College, Dallas Concorde Career College, Grand Prairie Concorde Career College, San Antonio Culinary Institute LeNotre Deluxe Barber College ECPI University Fortis College, Houston South

	Fortis Institute, Houston North Lincoln College of Technology McAllen Careers Institute Ogle School Hair Skin Nails, Arlington Ogle School Hair Skin Nails, Dallas Ogle School Hair Skin Nails, Denton Ogle School Hair Skin Nails, Fort Worth Ogle School Hair Skin Nails, Houston Ogle School Hair Skin Nails, Hurst Ogle School Hair Skin Nails, North Dallas Ogle School Hair Skin Nails, San Antonio PCI Health Training Center, Dallas PCI Health Training Center, Richardson Pima Medical Institute Pima Medical Institute, San Antonio Southern Careers Institute, Austin Southern Careers Institute, Brownsville Southern Careers Institute, Corpus Christi Southern Careers Institute, Harlingen Southern Careers Institute, Pharr Southern Careers Institute, San Antonio North Southern Careers Institute, San Antonio South Southern Careers Institute, Waco Southwest University at El Paso The College of Health Care Professions, Austin The College of Health Care Professions, Dallas The College of Health Care Professions, Fort Worth The College of Health Care Professions, Houston Southwest The College of Health Care Professions, McAllen The College of Health Care Professions, Northwest The College of Health Care Professions, San Antonio The College of Health Care Professions, San Antonio South The Ocean Corporation Tulsa Welding School & Technology Center Vogue College of Cosmetology, Fredericksburg Rd. Vogue College of Cosmetology, Ingram Rd. Vogue College of Cosmetology, Lubbock Vogue College of Cosmetology, McAllen
--	--

	West Coast University Western Technical College, Main
Defendants-Appellees:	United States Department of Education Miguel Cardona, in his official capacity as Secretary of Education
Counsel for Defendants-Appellees:	United States Department of Justice Brian M. Boynton Marcia Berman Christine L. Coogle (christine.l.google@usdoj.gov) Cody T. Knapp (cody.t.knapp@usdoj.gov) R. Charlie Merritt (robert.c.merritt@usdoj.gov)
Other interested entities:	Career Education Colleges and Universities Institutions that participate in Title IV programs (see list at https://fsapartners.ed.gov/knowledge-center/library/federal-school-code-lists/2023-04-27/2023-24-federal-school-code-list-participating-schools-may-2023)

/s/ Stephen B. Kinnaird
Stephen B. Kinnaird

*Attorney of record for
Plaintiff-Appellant*

Plaintiff-Appellant Career Colleges and Schools of Texas (“CCST”) moves this Court to issue a temporary administrative injunction staying the effective date of the challenged rule, 87 Fed. Reg. 65904 (Nov. 1, 2022) (the “Rule”), while the Court decides CCST’s motion for injunction pending appeal, filed contemporaneously with and incorporated by reference within the instant motion.

See In re Abbott, 800 F. App’x 296, 298 (5th Cir. 2020) (“Entering temporary administrative stays so that a panel may consider expedited briefing in emergency cases is a routine practice in our court.”). Because of the Rule’s complexity, the need for the Government to respond to the motion for temporary injunction pending appeal, and the advent of the holiday weekend, it is unlikely that the Court can resolve the full motion for an injunction pending appeal by tomorrow, when the Rule goes into effect. Given the Rule’s clear illegality and the imminent and irreparable harm described in its motion for injunction pending appeal, CCST respectfully requests that the Court grant this motion for a temporary administrative injunction **before July 1, 2023**, the effective date of the Rule.

Defendants oppose this motion.

Dated: June 30, 2023

Respectfully submitted,

/s/ Stephen B. Kinnaird

Philip Vickers
Katherine Hancock
CANTEY HANGER LLP
600 West 6th Street, Suite 300
Fort Worth, TX 76102
pvickers@canteyhanger.com
(817) 877-2800

Allyson B. Baker*
Stephen Kinnaird
Michael Murray*
Sameer P. Sheikh*
Tor Tarantola*
PAUL HASTINGS LLP
2050 M Street NW
Washington, DC 20036
stephenkinnaird@paulhastings.com
(202)-551-1700

Counsel for Plaintiff-Appellant

* Application for admission or readmission pending.

CERTIFICATE OF SERVICE

Pursuant to Fed. R. App. P. 25(d) and 5th Cir. R. 25.2.5, I hereby certify that on June 30, 2023, I caused the foregoing motion to be served by email and courier on the following counsel for Defendants-Appellees:

Christine L. Google (christine.l.google@usdoj.gov)

Cody T. Knapp (cody.t.knapp@usdoj.gov)

R. Charlie Merritt (robert.c.merritt@usdoj.gov)

U.S. Department of Justice

Civil Division

Federal Programs Branch

1100 L St. NW

Washington, D.C. 20005

/s/ Stephen B. Kinnaird

Stephen B. Kinnaird

Attorney for Plaintiff-Appellant

CERTIFICATE OF CONFERENCE

I hereby certify that on June 30, 2023, Allyson Baker, counsel for Plaintiff-Appellant, conferred by telephone with Cody Knapp, counsel for Defendants-Appellees, about the foregoing motion. Defendants oppose the relief requested in this motion.

/s/ Stephen B. Kinnaird

Stephen B. Kinnaird

Attorney for Plaintiff-Appellant

CERTIFICATE OF COMPLIANCE WITH 5TH CIR. R. 27.3

I certify that the facts supporting emergency consideration of this motion are true and complete.

/s/ Stephen B. Kinnaird

Stephen B. Kinnaird

Attorney for Plaintiff-Appellant

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,
TYPFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

This document complies with the word limit of Fed. R. App. P. 27(d)(2)(a) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 187 words. This brief also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and 5th Cir. R. 32.1 and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font. Additionally, I certify that any required redactions have been made in compliance with 5th Cir. R. 25.2.13.

/s/ Stephen B. Kinnaird

Stephen B. Kinnaird

Attorney for Plaintiff-Appellant

Dated: June 30, 2023